IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

Crl.MC.No. 149 of 2007()

CC.625/2003 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: 2ND ACCUSED

FAIZAL, S/O.HUSSAIN,
AGED 27 YEARS, THANATHIL HOUSE,
NJALIPARAMBU, FORTKOCHI.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS: STATE/COMPLAINANT

STATE OF KERALA, REPRESENTING
SUB INSPECTOR OF POLICE, CENTRAL POLICE
STATION, ERNAKULAM, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SMT. LATHA.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 149 OF 2007

Dated this the 18th day of January, 2007

ORDER

The petitioner is the 2nd accused and faces indictment in a prosecution under Sec.394 of the IPC. According to the learned counsel for the petitioner, the petitioner was regularly appearing before the learned Chief Judicial Magistrate. The case was posted to 13/12/06. On that day, the petitioner was not present. The learned counsel for the petitioner explains that the petitioner had wrongly noted the date as `30/12/06' and that is the reason why he happened to be absent on 13/12/06. A warrant of arrest by the learned Magistrate is chasing the petitioner and the petitioner, in these circumstances, has come to this Court with a prayer that directions under Sec.482 of the Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears before the learned Magistrate . The learned counsel for the petitioner submits that consistent with the practice followed by the learned Magistrate, he apprehends that a direction to make cash deposit may be made when the

petitioner applies for bail again.

2. I do not want to interfere with the discretion to be exercised by the learned Magistrate on the question of grant of bail and the conditions of bail. But I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. If, as stated by the learned counsel, it was an inadvertent mistake in noting down the date and the learned Magistrate is convinced about that, I have no reason to assume that the learned Magistrate would unreasonably insist on any such onerous condition. Suffice it to say that the learned Magistrate must consider such application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously if such application is filed after giving sufficient prior notice to the Prosecutor in charge of the case. In that event, the petition shall be disposed of on the date of surrender itself.

3. With the above observations, this Crl.M.C. is dismissed.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge